IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE M.H.S. ANSARI

and
THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 2957 of 1996

Between:

M/s. ITC Bhadrachalam Paper Boards Limited,
rep. by it's Manager (Taxation) Sri G.Chalapathi.
Sarapaka Village, Khammam District.

..... PETITIONER

AND

1 The Principal Secretary to Government,
Revenue Department, Andhra Pradesh,
Hyderabad.
2 The Commissioner of Commercial Taxes,
Hyderabad, Andhra Pradesh.
3 The Commissioner of Industries,
Hyderabad, Andhra Pradesh.
4 The District Industries Center,
Sangareddy, Medak District.
5 The Commercial Tax Officer,
Kothagudem, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction particularly one in the nature of Writ of Certiorari after calling for the records and quash the proceedings issued by the fifth respondent in proceedings No.2846/95-96 dt.7-2-1996 based on the Memo of the first respondent No.13608/CT-II(2)/95-1 dt.15.4.1995 clarifying that the deferment of sales tax provided in G.O.Ms.No.498,Industries and Commerce Department,

dt.16.10.1989 would be only prospective after the approval of the same by the State Level Committee and not relatable to the date of Commencement of the commercial production or to pass such further order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.SURI BABU

Counsel for the Respondents.: SPL. GP FOR TAXES

The Court made the following :

ORDER: (per M.H.S. Ansari, J**)**

Heard learned counsel for respective parties.

The question arising for consideration in the instant writ petition is the same as was considered by this Court in **L.C.K. Cements Limited, Macherla, Guntur District v. The Commissioner of Commercial Taxes, A.P., Hyderabad**. Accordingly, instant writ petition is liable to be disposed of in terms of the judgment cited supra.

The matter was decided in **L.C.K. Cements Limited,** cited supra, thus:

> " Inasmuch as the Final Eligibility Certificate dated 31.10.1995 accepts the date of commencement of the production as 28.06.1994, entered in Column 5, and allows the benefit for five years from 28th June, 1994 to 27.06.1999, as could be seen from Column 10(b) of the said Certificate, the third respondent has no authority to deprive the petitioner of the benefit of deferment of tax as granted under the final Eligibility Certificate for the period of five years from 28.12.1994 to 30.10.1995. We, therefore, quash the impugned notice No.G1/14285/95-96, dt.09.04.1996 and allow the writ petition, declaring that the petitioner is entitled to the benefit of deferment of tax for a period of five years as mentioned in Column 10 of the Final Eligibility and direct the respondents not to demand the tax pursuant to the impugned notice."

Accordingly, the impugned memo dated 15.04.1995 is quashed and set aside.

The writ petition is allowed with a direction to the respondents not to demand the tax pursuant to the impugned memo and notice of demand. No costs.

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M.H.S. Ansari, J

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T.CH.Surya Rao, J

Date: 23.12.2004

va

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty third day of December, Two Thousand and Four.

To

1 The Principal Secretary to Government,

Revenue Department, Andhra Pradesh,
Hyderabad.

2 The Commissioner of Commercial Taxes,
Hyderabad, Andhra Pradesh.

3 The Commissioner of Industries,
Hyderabad, Andhra Pradesh.

4 The District Industries Center,
Sangareddy, Medak District.

5 The Commercial Tax Officer,
Kothagudem, Khammam District.

6 Two CCs to Spl. G.P. for Taxes, High Court of A.P. Buildings, Hyderabad (OUT)

7 Two CD Copies